

CITY OF GEARHART
Regular Meeting of the City Council
Wednesday, September 7, 2022
7:00 pm On-site and Virtual/Telephonic

The regular meeting of the Gearhart City Council was held Wednesday, September 7, 2022. Council members, City staff and the public were able to attend on-site, virtually, or by dialing in on a telephone.

Mayor Smith called the meeting to order at 7:16 pm. Present were Mayor Kerry Smith, Councilor Reita Fackerell, Councilor Dana Gould, Councilor Austin Tomlinson, Councilor Brent Warren, City Administrator Chad Sweet, City Attorney Peter Watts, Police Chief Jeff Bowman, Fire Division Chief James Hutchinson, Executive Assistant Krysti Ficker, and City Treasurer Justine Hill. A quorum of the Council was present.

There were no conflicts of interest declared by any member of the Council.

There were several sets of minutes that needed to be approved.

- ON MOTION by Councilor Tomlinson, 2nd by Councilor Fackerell to approve the minutes of the August 3, 2022 regular meeting of the City Council, MOTION was approved 5 yeas (Fackerell, Gould, Smith, Tomlinson, Warren) - 0 nays.
- ON MOTION by Councilor Warren, 2nd by Councilor Fackerell to approve the minutes of the August 18, 2022 worksession meeting of the City Council, MOTION was approved 5 yeas (Fackerell, Gould, Smith, Tomlinson, Warren) - 0 nays.
- ON MOTION by Councilor Fackerell, 2nd by Councilor Warren to approve the minutes of the August 30, 2022 worksession meeting of the City Council, MOTION was approved 5 yeas (Fackerell, Gould, Smith, Tomlinson, Warren) - 0 nays.

The Council received a Planning Commission report in their council packet prepared by Russ Taggard. There were no questions or comments by Council members.

Mayor's Report. Mayor Smith attended an event at The Drifhaven at Gearhart. He also attended several meetings at City Hall.

Councilor's Reports. Mayor Smith opened discussion for each Council member's report.

- Councilor Fackerell presented the annual Trail's End Art Association Mayor's Choice Art Award.
- Councilor Tomlinson attending a meeting at City Hall.

- Councilor Gould has been inquiring into Brian Habecker's request for a dedicated access to the Ridge Path in the Creekside area. She appreciated the work he had already done and thanked his efforts. Based on further investigation, it appears an access was already established, but not finalized. She is also interested in learning more about what other surrounding Cities are doing in terms of addressing the homeless; as well as, hearing more about the psilocybin mushroom measure. She would like input and public comment on the legalized psilocybin measure.
- Councilor Warren continued to assist with the Necanicum Watershed group in the removal of invasive species on the Ridge Path, which Councilor Gould also participated in. He attended the Gearhart Homeowner's Association event held at Centennial Park. He has been continuing his participation with the Clatsop Regional Housing Taskforce. There may be an opportunity for local municipalities to access foreclosure properties to help address local housing and public service needs.

City Officer Reports.

- Chief of Police. Chief Bowman presented a monthly report. He went over statistical data, but did note that it does not vary much from month to month. He does not feel that Gearhart has a crime issue. He also mentioned that, at this time, there is very limited homeless activity. He did stress that he feels that homeless activity will increase and that it will be more of a community care issue. He referenced two actual incidents that demonstrate what he references as "entitlement and I want attitudes" (bowling alley, drunk driver). He also referenced the Kia Boyz from Minneapolis. He stressed the dangers of social media in fueling inappropriate behavior.
- Fire Chief. Fire Division Chief Hutchinson gave an August data report, including a call breakdown, mutual aid given, a wildfire update, a fire hall facility safety/operational projects update, and water rescue program information. He talked about wildfire mobilization and revenues received from mobilization. Fire Division Chief Hutch read the press release regarding the Little Beach fire. He explained that wildfires are very manpower intensive and they require different skill sets than structure fires. He went over bay doors in the fire station in terms of safety/operational concerns. He discussed the need for Gearhart to have a water rescue program. He specifically talked about local fire department water rescue programs versus the US Coast Guard rescue program. Items he mentioned were coverage of coastline, response times, increase in water rescues, and availability.
- City Treasurer. Financial reports were submitted in the Councilors' packets. Treasurer Hill mentioned receipt of franchise fee payments, the final payment for the Federal Coronavirus Local Fiscal Recovery Fund (CLFRF)/American Rescue funds; as well as, apportionments in State Revenue Sharing fund, and the State Street fund. She mentioned expenditures in the conflagration salary accounts, water bond interest payments, water rights compliance and reporting services

payments; as well as, the City of Warrenton for water purchase. State Revenue Sharing grant awards have been processed and checks have been sent to the local organizations. Treasurer Hill mentioned a letter in correspondence from the City's auditors. The correspondence dated June 8, 2022 is simply notification that Accuity will be doing the City's June 30, 2022 audit and their intent for planned scope, timing of the audit, and significant risks that they will be reviewing. She also mentioned republishing a Request for Proposal for the building inspection services.

- City Attorney. Attorney Watts went over the current events of alleged voter fraud in the last Gearhart election. He submitted information to the Clatsop County elections office challenging some voters' registration legitimacy. He talked about definitions of domicile, determining the residence and qualifications of a person voting in Oregon, and his role in the process. He stressed that after consulting with other legal counsels, he had an obligation to turn credible information over to election officials and/or the Secretary of State. He believes that many people may be confused by voter's residency rules in Oregon and may have also been misled by others. He stated it was not his job to investigate the claims, just report the information that he had obtained.
- City Administrator. Information had also been sent to the Councilors in advance. He gave a summation of his written report. He talked about the fire department's mobilization, the police department's continued struggle to replace an officer, the Water Conservation Plan draft, playground installation, the continued efforts with the Necanicum Watershed group in the removal of invasive species on the Ridge Path, and the In-A-Landscape event.

Mayor Smith requested by consensus to move Ken Shonkwiler, Oregon Department of Transportation (ODOT) up on the agenda directly ahead of the Visitors section. There was consensus by all City Council members (Fackerell, Gould, Smith, Tomlinson, Warren).

Mayor Smith requested by consensus on adding an agenda item under new business, which would allow Councilor members to make a motion and have discussion regarding the executive session that directly preceded the regular Council meeting. There was consensus by all City Council members (Fackerell, Gould, Smith, Tomlinson, Warren).

Correspondence. Mayor Smith acknowledged correspondence.

A brief Gearhart US HWY 101 Facility Project Plan update was given by Ken Shonkwiler, ODOT. With State and local contributions, the Facility Project Plan identified areas to improve safety and address specific needs. Ken expressed gratitude for all the comments. The final plan does not need to be adopted by the Gearhart City Council because it will be adopted at the State level; however, if any Councilors would like to provide feedback before it is finalized, he would appreciate any input. He reiterated that the roundabout in

the plan will remain only an aspirational project and likely will not be funded. Councilor Warren was concerned that cost estimates may be higher by the time the project was actually funded, and was interested in funding contributions that may be imposed on the City. Ken said that there is no funding at this time for any of the Plan at any government level (Federal, State, local). Ken indicated that once the Plan is approved, the document can be used to start applying for grants and other safety funding sources. Mayor Smith said that when he was elected one of his campaign goals was to have three lanes through the Gearhart corridor. He wants to help ODOT in their efforts any way the City can!

Visitors. Mayor Smith invited visitors to speak.

- Beth Cameron (2906 Pine Court) attended the August 30th worksession. She expressed concern over the Council's role versus the City Manager's role in regards to City employees and their job performance. She also expressed concerns over the number of roles that the City Administrator has in the Emergency Operation Plan and on a daily basis. She feels that one person with so much control can dictate the narrative. She also has concerns over the water infrastructure in connection with the development of The Cottages. She feels that the current water infrastructure should get the updates and repairs that it needs before focusing on new development. She feels that the community should have input before the City Council takes any action.
- Jack Zimmerman (408 W Kershul Circle) requested information from Attorney Watts regarding the Highlands annexation. He was interested in the 20 year buildable inventory, potential substantial errors, juristical penalties for Cities that have a failure to comply, and any exemptions. Attorney Watts responded that the State would probably withhold State Shared Revenues (i.e., liquor, marijuana, state street, cigarette). Mr. Zimmerman also expressed concerns over allegations that he had been turned into the Secretary of State's Office for soliciting funds outside a Political Action Committee (PAC). Attorney Watts confirmed that he did pass this information onto the Secretary of State's Office, but did not feel comfortable discussing any other additional information while an investigation was being conducted. Attorney Watts clarified it is not his job to investigate allegations in this type of situation. There was additional dialogue on removing the request, the City Attorney's role, obligation to report allegations, and confirmation from Attorney Watts that no City employee initiated the investigation. Attorney Watts did indicate he had been keeping the Mayor informed of updates on the situation.
- Tom Thies (292 Woodland) thanked City crews for clearing brush on the Woodland avenue access. He was also curious on the US HWY 101 improvement project which entity would be responsible for maintaining the green spaces.
- Harold Gable (714 H Street) appreciates laying out issues that need to be addressed. He felt that although Attorney Watts spoke eloquently, he did not concisely provide clarification on items

discussed. He thanked Mayor Smith and felt the in-person meeting was moving in the right direction.

- Pat Gilroy (302 Nita) introduced himself as a long-time member of the community. His household found their names on the voter's registration challenge list. They have lived full-time in Gearhart for three years and have their cars registered here. He finds it offensive that he is being required to provide evidence of his residency because someone in Gearhart, through the City Attorney, has targeted him on a list. He has been communicating with Attorney Watts. He understands that Attorney Watts is just the messenger and is not the investigator; however, it is disturbing to him that a City would allow their attorney to submit allegations without adequate documentation. He would like to know who is behind the allegations and does have a standing request for the information. He is frustrated because everyone at the City is telling him they had no involvement with the submission; however, the Clatsop County Clerk is telling him it is the City of Gearhart. Mayor Smith responded that neither the Mayor or the City Council had any involvement and that he would call the Clatsop County Clerk for clarification. Attorney Watts also responded that the information was not submitted on the City of Gearhart letterhead.
- There was brief discussion on the involvement of the City in the allegations of voter's fraud and contributing to a campaign outside of a PAC. Mayor Smith clarified the visitors section was not a roundtable discussion and he ended the visitors section.

Ordinances/Resolutions.

Ordinance #934 - AN ORDINANCE AMENDING THE GEARHART CITY CODE TO FOLLOW STATE PUBLIC CONTRACTING RULES AND PROCUREMENT PROCESSES. Mayor Smith introduced the ordinance.

- ON MOTION by Councilor Tomlinson, 2nd by Councilor Warren to approve Ordinance #934 - An Ordinance Amending the Gearhart City Code to follow State Public Contracting Rules and Procurement Processes.
 - Councilor Fackerell felt comfortable with the small procurement thresholds and was interested in how other Councilors felt in regards to the larger amounts. Councilor Gould agreed that the intermediate and large thresholds were significant amounts of money for a small City. She felt that oversight was important. Administrator Sweet talked about quotes, allocations in the budget, and reserve funds. Councilor Gould clarified procurements as the process in which the City makes purchases. She would like local businesses to have an opportunity to be competitive and also realizes that the lowest bidder is not always the best option. Councilor Warren felt that with the State of Oregon, League of Oregon Cities, auditors and City staff supporting the Oregon Revised Statute in public contracting rules and procurement process, it was

appropriate for the City of Gearhart. City Treasurer Hill felt it would provide a consistent process between staff and vendors. There will still be oversight.

- MOTION was approved 5 yeas (Fackerell, Gould, Smith, Tomlinson, Warren) - 0 nays.

Resolution #974 - WEAPONS BANNED FROM GEARHART CITY COUNCIL MEETINGS.

Administrator Sweet explained that there had been some changes made since the last version was shared with the Council. The resolution has been updated to cover any public City meeting. Mayor Smith requested a motion if the Council would like to move forward with discussion.

- ON MOTION by Councilor Gould, 2nd by Councilor Fackerell to approve the Resolution #974.
 - Councilor Warren felt that this type of resolution was common in public entities and supported moving forward. Councilor Fackerell appreciated all the insight shared by Councilor Gould. Councilor Gould referenced a typo in the resolution and expressed her concerns. She appreciates a concealed handgun license carrier's gun rights; however, the fear of weapons should not intimidate citizens from being part of a City public meeting.
- MOTION was approved 5 yeas (Fackerell, Gould, Smith, Tomlinson, Warren) - 0 nays.

Old Business. None.

New Business.

- Seismic Resiliency and Mitigation Plan Adoption (SRAMP).
 - Councilor Tomlinson requested that the SRAMP adoption be tabled by consensus, which was seconded by Councilor Warren. There was consensus by all City Council members to table the discussion (Fackerell, Gould, Smith, Tomlinson, Warren).
- Mayor Smith introduced a new agenda item and asked if any Councilors would like to make a motion to discuss items in the executive session held prior to the Council meeting. There was no MOTION or discussion.

Council Concerns.

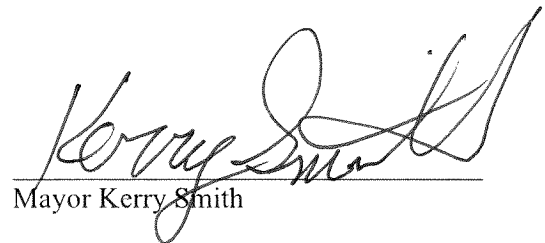
- Councilor Warren shared no concerns.
- Councilor Gould shared no concerns.
- Councilor Tomlinson shared no concerns.
- Councilor Fackerell shared no concerns.
- Mayor Smith shared no concerns.

Attorney Watts requested additional clarification on the voter's registration allegations. He clarified that he did a spot check on the list. He did find an obituary with the same information as one of the alleged fraudulent voters. He again reiterated that he was not an investigator. The number of votes on the list would not change the outcome of the vote. He also felt that based on information that he saw, and in consultation with other legal counsel, there seemed to be potential legal issues with funds being solicited for political activities that were not supported through a PAC.

Mayor Smith requested adjournment.

- ON MOTION by Councilor Tomlinson, 2nd by Councilor Fackerell to adjourn the meeting, MOTION was approved 5 yeas (Gould, Fackerell, Smith, Tomlinson, Warren) - 0 nays. Mayor Smith adjourned the regular Council meeting at 9:18 pm.

Minutes were amended at the November 2, 2022 meeting.



Mayor Kerry Smith



Chad Sweet, City Administrator